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ABSTRACT

This testimony by the co-director of the Civil Rights Project at Harvard University, Christopher Edley, examines the U.S. Department of Education's (DOE's) early implementation efforts regarding the No Child Left Behind Act of 2002 (NCLB), recommending actions that the DOE should take to ensure that states, districts, and schools understand and comply with the NCLB's requirements (especially requirements designed to improve educational opportunity and achievement for disadvantaged students). Despite some meaningful progress related to the NCLB, long-standing racial and ethnic disparities in educational opportunity and achievement continue. The testimony highlights three broad areas in which the DOE has taken action and should take additional action: accountability (data, assessments, graduation rates, and adequate yearly progress); parental involvement (public input, access to information, and administrative complaint procedures); and resources (teacher quality, technical assistance, supplement-not-supplant, and funding). The testimony questions whether there is sufficient focus on and commitment to the mechanisms within the NCLB that might directly address racial and ethnic gaps in achievement; the determination within the DOE to anticipate state and local problems and invest creatively in technical assistance to ensure compliance with the NCLB; sufficient willingness within the DOE to collect needed data; and willingness by Congress to do its part to keep the promises of the NCLB. (SM)

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THE CIVIL RIGHTS PROJECT

HARVARD UNIVERSITY

KEEPING THE PROMISE OF "NO CHILD LEFT BEHIND":

SUCCESS OR FAILURE DEPENDS LARGELY ON IMPLEMENTATION BY THE U.S. DEPARTMENT OF EDUCATION

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Testimony of Christopher Edley, Jr.*

Before the

U.S. House of Representatives Committee on Education and the Workforce
Oversight Hearing on the Implementation of the No Child Left Behind Act

July 24, 2002

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Keeping the Promise of "No Child Left Behind":
Success or Failure Depends Largely on Implementation
by the U.S. Department of Education

Testimony of Christopher Edley, Jr.[1] Before the
U.S. House of Representatives Committee on Education and the Workforce
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Introduction

Mr. Chairman, Ranking Member Miller, and members of the Committee, thank you for the opportunity to testify today on the early implementation of the No Child Left Behind Act of 2001 ("NCLB" or "Act").[2] I want to commend you for holding this hearing, which I hope will be only the first of many periodic hearings regarding the implementation of this vitally important Act.

Today, I will focus my comments on the U.S. Department of Education's early implementation efforts. I will recommend actions that the Department should take in the near term to ensure that states, districts, and schools understand and comply with the Act's requirements — especially requirements designed to improve educational opportunity and achievement for poor and minority students.

NCLB Implementation
And the U.S. Department of Education

NCLB contains many promises related to raising student achievement and closing achievement gaps – including gaps by race, ethnicity, poverty, disability, and limited English proficiency. Despite some meaningful progress, long-standing racial and ethnic disparities in educational opportunity and achievement continue. For example:

- **Reading and Math Achievement:** According to the National Assessment of Educational Progress, among 12th graders, 17% of Whites are reading below the basic level of competency, compared to 43% of Blacks, 36% of Hispanics, 35% of American Indian/Alaska Natives, and 25% of Asian American/Pacific Islanders.[3] NAEP scores for 12 grade math show even larger racial and ethnic

[1] Christopher Edley, Jr. is Co-Director of The Civil Rights Project at Harvard University, and Professor of Law at Harvard Law School. The Civil Rights Project is a university-based, multidisciplinary research and policy program focusing on issues of racial and ethnic justice.

[2] No Child Left Behind Act of 2001, Pub. L. No. 107-110 (2001).

[3] U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, National Assessment of Educational Progress (NAEP) (1998).

disparities, with 20% of Whites scoring below basic compared to 70% of Blacks and 58% of Hispanics.[4]

- **Access to High Quality Teachers:** In California, for example, the proportion of unqualified teaching faculty is 6.75 times higher in high-minority schools (greater than 90% minority enrollment) than in low-minority schools (less than 30% minority enrollment).[5] "Nationally, in schools with the highest minority enrollments, students have been found to have less than a 50 percent chance of getting a mathematics or science teacher with a license and a degree in the field that they teach."[6]

- **Graduation Rates:** A study of 35 of our nation's largest urban districts (covering over 600 schools) revealed that in over 300 schools, 50% or more of the students enrolled in 9th grade failed to graduate by the time their cohort completed 12th grade.[7] Another 100 schools had rates approaching the 50% failure rate. Most of these districts had high percentages of minority students, and more than half of the weakest schools had at least 90% minority enrollment.[8]

These and countless other indicators portray a socially, economically, and morally unacceptable picture of opportunity in America that is coded by color and by class — a picture that must change as a matter of urgent national interest and simple justice.

The foundational principle in the NCLB is the agreement between Congress and the Administration on the importance of further action to hold states, districts, and schools accountable for improving educational outcomes for all children. Moreover, Congress determined that the nation's higher expectations should be underscored with federal investments in critical resources and in technical assistance.

Most important, I believe, is that for the first time the academic achievement of the major racial and ethnic groups, socio-economically disadvantaged students, English language learners, and children with disabilities, will be at the core of whether our schools are judged to be successful. No longer can schools with sky-rocketing drop out rates or racially identifiable pockets of academic stagnation and failure earn a passing grade. There is much in the NCLB about which one might be concerned or even fearful, but the bi-partisan agreement to hold schools, districts, and states accountable for the academic

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[4] U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, National Assessment of Educational Progress (NAEP) (2000).

[5] SRI International, Teaching and California's Future, Center for the Future of Teaching and Learning (1999).

[6] Linda Darling-Hammond, *Apartheid in American Education: How Opportunity is Rationed to Children of Color in the United States* (2001).

[7] Robert Balfanz and Nettie Legters, *How Many Central City High Schools Have a Severe Dropout Problem, Where are They Located, and Who Attends Them?* (Paper presented at the Conference on Dropouts in America, Harvard University) (Jan. 13, 2001).

[8] *Id.*

proficiency of these traditionally underserved subgroups of students is to my mind the single greatest reason to be hopeful.

We must remember, however, that accountability was the foundational principle for the NCLB's predecessor, the Improving America's Schools Act of 1994.[9] Therefore, as we seek effective implementation of the NCLB we must take a hard look at compliance shortcomings under the old law and take aggressive action to avoid repeating our mistakes.

We must also pay attention to legitimate concerns across the country regarding whether and how the requirements of the NCLB can be met and its goals realized. Some of those concerns I share; others I do not. There are risks aplenty and it will take heroic efforts at all levels of the education system to minimize those risks — starting with this Committee's oversight. If not properly implemented, the NCLB (with its central focus on testing and sanctions) could cause substantial harm to students and our public education system. For example, if the Department uses its authority to enforce more frequent testing without ensuring that assessment systems meet scientific standards, and that qualified teachers are available to the neediest students, then the emphasis on frequent testing would likely exacerbate existing disparities. On the other hand, if properly implemented, I remain cautiously optimistic that the NCLB (with its focus on data transparency, disaggregation, teacher quality, consequences, and more) can help improve education and close gaps in opportunity and achievement for children who today, as in generations past, are the least well served by our educational system.

Along with the ambitions of the statute, therefore, implementation becomes all the more crucial. This is true for several reasons:

1. In many areas, the NCLB builds on the prior Improving America's Schools Act. Yet it is no secret that the prior Act's requirements were not fully implemented, and many states have not fully complied with some or many provisions of the prior Act. The Department must do better to ensure that states that are behind in their efforts catch up and quickly move forward. But *never in its history* has the Department performed well enough in this responsibility, and never has the Congress been vigilant enough in demanding what has been needed.

2. The NCLB also includes many *new* requirements, which are sometimes broadly defined. Many states will have to build the foundations and systems necessary to meet the Act's requirements. This places substantial importance on Department regulations and policy guidance, to ensure that states move quickly and effectively to do so. Otherwise, inertia will win and children will lose.

3. The Act charges the Department with oversight and enforcement, and in countless places there is substantial administrative discretion. The Department must work closely with states to ensure proper implementation of the Act, but the

[9] Improving America's Schools Act of 1994, Pub. L. No. 103-382 (1994).

Department must also be willing to take action if states and districts fail to comply.

Secretary of Education Rod Paige has publicly recognized the importance of proper implementation and enforcement of the NCLB, saying in letters to states and districts earlier this year:

> No Child Left Behind is now the law of the land. I took an oath to enforce the law, and I intend to do just that. I will help states and districts and schools comply with the law – in fact, I will do everything in my power to help – but I will not let deadlines slip or see requirements forgotten. When choosing between kids and the system, I choose the kids.[10]

> Consistent with the spirit of these provisions [in the NCLB] and with the principle that requirements should not be waived if doing so would undermine the intent and purpose of the law, we do not intend to waive fundamental requirements on standards, assessments, adequate yearly progress, and accountability under the law.[11]

I strongly applaud this sentiment. Regrettably, however, the Department's first implementation steps already raise some concerns.

Early Department Implementation of the NCLB and Recommended Actions

Let me focus on three broad arenas in which the Department has taken action and should take additional action in the near term to ensure proper implementation and enforcement of the NCLB:

1. **Accountability** (including data, assessments, graduation rates, and adequate yearly progress);

2. **Parental Involvement** (including public input, access to information, and administrative complaint procedures); and

3. **Resources** (including teacher quality, technical assistance, supplement–not-supplant, and funding).

[10] Letter from Rod Paige, U.S. Secretary of Education, to school district superintendents (Feb. 7, 2002).

[11] Letter from Rod Paige, U.S. Secretary of Education, to chief state school officers (Feb. 15, 2002).

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1. Accountability

First, in terms of accountability, the NCLB requires that states: (1) collect and report key data on student achievement, disaggregated by race, ethnicity, poverty, and more; (2) develop assessment systems that are valid, reliable, aligned with state standards, and more; and (3) hold schools accountable for demonstrating adequate yearly progress ("AYP") using multiple measures that reflect real improvements in student achievement. In each of these areas, the Department should take additional action to ensure proper compliance with the Act.

Data

The NCLB requires that every state, district, and school annually collect and publicly report specific data on student achievement, disaggregated by race, ethnicity, poverty, limited English proficiency, disability, gender, and migrant status.[12] This transparency is the foundation for accountability under the Act – for empowering parents and for ensuring that states take action to improve student achievement and close achievement gaps. Yet many states do not have the systems in place to fully comply with these requirements. The Department must work with states to ensure that they quickly build the necessary systems and publicly report the data required by the NCLB.

The reason for heightened concern here lies in history: Some disaggregation and reporting of data have long been required, but few states have fully complied. The NCLB properly raises the bar, and this should be a central focus for the Department. In the Department's Consolidated State Plan Requirements, released in May 2002, the Department allowed states to delay their data reporting and pledged to work with states to establish standards and formats for data reporting.[13] The Department must move aggressively to help states build their data systems, hold states to the timelines in the Act, and require that states show immediate progress in reporting their data.

Moreover, the Department must ensure that it is able to collect the required data at the state, district, and school level, to ensure effective implementation and oversight of the Act. Earlier this year, the Department proposed in the Federal Register to use the Elementary and Secondary Schools Civil Rights Compliance Report (the "OCR Survey"), administered biannually by the Department's Office for Civil Rights, to collect these data at the school and district levels.[14] This makes great sense, because the OCR Survey is an instrument that schools and districts know and understand (since they have been completing it every other year since 1968). Yet the Department recently reversed course and announced that it would not be collecting achievement data through the OCR Survey.[15]

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[12] No Child Left Behind Act of 2001 §1111(h)(1).

[13] Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,971 (May 22, 2002).

[14] Notice of Proposed Information Collection Requests, 67 Fed. Reg. 2421 (Jan. 17, 2002).

[15] Submission for OMB Review, Office of Civil Rights, 67 Fed. Reg. 43,295, 43,296 (June 27, 2002).

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It is reasonable to ask, Why not use the OCR survey? And how will the Department ensure that the needed data are reported and used? What possible explanation can there be for derailing this data collection? Surely there is not some knee-jerk hostility towards things labeled "civil rights"? Is there a reluctance to impose this minimal data reporting burden on the states, even though OMB career staff reportedly approved the change, and even though the entire point of NCLB is to promote accountability by, at minimum, making data readily available?

Let me generalize this point. The NCLB accountability provisions are predicated on the belief that parents and community members can and should play a continuing role in ensuring school improvement. However, many states fail to publish racially disaggregated achievement information, and often there is a substantial delay between data gathering and reporting to the public. Given this poor track record and the new subgroup accountability requirements, the Department must redouble its efforts to increase the flow of information at the school, district, and state level through a combination of technical assistance and enforcement action. Without improvement in this regard, parents and community members will be hamstrung by a simple lack of information.

Standards and Assessments

The NCLB requires that states establish assessments for purposes of school and district accountability that are valid, reliable, consistent with nationally recognized professional standards, and more.[16] Given the Act's substantial focus on testing and the negative consequences associated with inappropriate test use, these requirements are essential. Based on my experience as a member of the National Research Council Board on Testing and Assessment for the past six years, I can also tell you that meeting these requirements is not easy. They are rigorous for good reason. Triggers that can lead to wholesale restructuring of schools and even districts must be based on sound and valid measures, no less than triggers that result in high-stakes consequences for individual students. The alternative is widespread abuse of standardized tests and tremendous barriers to effective reform. Good tests and test use can provide one measure that, combined with other measures such as graduation rates, can help focus constructive public attention, target interventions, and improve educational opportunity and achievement. But bad tests and test use hinder education reform, undercut testing, and often harm individual students – especially poor and minority students.

The Department's recent regulations regarding NCLB standards and assessments, released earlier this month, already appear to weaken the Act's testing requirements[17] – allowing the use of norm-referenced tests, and allowing a patchwork of state and local assessments. The resulting jury-rigged assessment systems will undoubtedly lack validity for some of the uses to which they are put. Most troublingly, given the growing

[16] No Child Left Behind Act of 2001 §1111(b)(3)(C).

[17] No Child Left Behind Act of 2001 §1111(b)(8)(C).

use of these tests for high-stakes consequences directed at students, we should be concerned that such systems will fail to have curricular and instructional validity. More generally, if the assessment systems are cobbled together in haphazard fashion, the entire NCLB effort to make inferences from score trends will simply depart the realm of science altogether, and just become scapegoating-with-numbers. Junk science. In short, the Department's regulations raise serious concerns, and they also raise the bar for the Department to ensure that states present substantial evidence that their assessment systems are valid and reliable for all students and for all intended uses of those assessments. (I address the issue of technical assistance below.)

Adequate Yearly Progress ("AYP") and Graduation Rates

The NCLB allows states to define AYP, but requires that they do so in a manner that promotes real achievement. For example, the Act expressly requires that AYP include not just state assessments but also "graduation rates," so that schools do not show AYP in terms of increased test scores based on more students dropping out of school.[18] For all students, and particularly students of color, graduating high school with a bona fide degree (not a GED or alternative certificate) is the biggest predictor of future success. Yet in many of our cities, more than 50 percent of minority students fail to graduate.

It is vital that the Department provide guidance to states on how to define AYP, and the Department is expected to release draft regulations shortly. However, the Department's Consolidated State Plan Requirements already raise some concerns. In those Requirements, the Department appropriately identified graduation rates as one of the five key indicators of state compliance with the Act, but the Requirements oblige states to report graduation rate data in the manner used by the National Center for Education Statistics,[19] which uses a definition that is inconsistent with the NCLB's statutory language (and its Conference Report language)[20] and that significantly underestimates the

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[18] No Child Left Behind Act of 2001 §1111(b)(2)(C)(vi).

[19] Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,973 (May 22, 2002).

[20] No Child Left Behind Act of 2001 §1111(b)(2)(C)(vi) (requiring that AYP "...include[] graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years)..."); No Child Left Behind Act of 2001 §1111(h)(1)(C)(vi) (requiring same information on graduation rates be included in annual state report cards); Joint Explanatory Statement of the Committee of Conference, 107th Cong., Report on H.R. 1 (2001):

> The Conferees intend that reporting of graduation rates described in clause (vi) shall be determined by reporting the percentage of students who graduate from high school with a regular diploma (not an alternative degree that may not be fully aligned with State academic standards, such as a certificate or GED), on time (within four years of starting the ninth grade for high schools that begin with the ninth grade or within the standard number of years for high schools that begin with another grade). The approach used to calculate graduation rates must also avoid counting dropouts as transfers. States that have or could have a more accurate longitudinal system that follows individual student progress through high school may use that system if approved by the Secretary as part of the State's Title I plan.... The Conferees intend that in addition to reporting graduation rates for secondary schools that for those districts that define secondary school as

numbers of students who fail to graduate with a regular high school diploma. The Department's Consolidated State Plan Requirements include a "note" indicating that the Department might modify the definition of "graduation rates."[21] The Department should do so to ensure compliance with the Act. And the Department should help states move toward more accurate reporting systems – including systems based on student identifiers that track individual student progress (with appropriate protections regarding privacy and use) – to ensure that no child is left behind.

2. Parental Involvement

Moving to the second category of concerns, the NCLB requires a substantial degree of parental and public involvement, including: (1) public input on the development and evaluation of federal, state, and district accountability plans; and (2) state administrative complaint procedures for parents and others who believe that the Act's requirements are not being met. These requirements, in addition to the public data reporting requirements described above, must be promoted and strengthened by the Department so that parents and others can act with valid and comprehensive information to promote school accountability and improvement.

Public Input

In many places, the NCLB requires that states include public input in state planning, but the rapid timelines for NCLB action have not allowed substantial public involvement to date. The Department should work to ensure parental and public involvement over time, including providing guidance to states on how to establish effective systems and ensure parental and public involvement from diverse communities.

All fifty states recently filed consolidated state applications, seeking funds under numerous NCLB programs. But the NCLB's allowance of consolidated state plans does not obviate each state's obligation to document its plans and activities under each NCLB program. The Department's Consolidated State Plan Requirements properly recognize this, but they only require states to make available their planning documents consistent with state "open records" laws.[22] In some states, these laws are quite expansive. However, the requirement that states develop plans regarding their NCLB activities is a federal requirement, and parents and others should, at a minimum, have access to those plans to the extent permitted under the Freedom of Information Act. There is no reason that parents and others should not have meaningful access to plans and information required under federal law. The Department should clarify this point.

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including grades 6, 7, or 8, data should be reported on student progress from that entry grade level through twelfth grade with particular attention placed on the transition point between eighth and ninth grade.

[21] Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,974 (May 22, 2002).

[22] Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,970 (May 22, 2002).

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Administrative Complaint Procedures

For all states that submit consolidated state applications, the NCLB requires that the state adopt "written procedures for the receipt and resolution of complaints alleging violations of the law in the administration of the programs."[23] This requirement, which was part of the 1994 Improving America's Schools Act, is currently included in Department regulations.[24] Few states have fully developed and widely publicized such procedures. If the current administration believes that parents and communities are the engines of reform on the local level, and I believe they have said as much, then these regulations must be reaffirmed and strengthened to ensure that each state establishes meaningful, well-publicized procedures by which parents and others can take action at the state level if they believe that the requirements of the NCLB are not being met on the ground.

3. Resources

Moving to the third general area of concern, the NCLB requires limited but important actions regarding the provision of education resources, including: (1) requiring that all students have full and equal access to "highly qualified" teachers; requiring the provision of "scientifically based" technical assistance; and (3) requiring that states "supplement not supplant" federal education funds. These requirements must be fully enforced. In addition, Congress must fund the NCLB at a level necessary to provide states and students a meaningful opportunity to meet high standards.

Teacher Quality

Substantial research confirms that a high quality teacher is the most important educational resource a school can provide. Yet, too many children, especially poor and minority children, are being taught by teachers with emergency certification, limited experience, limited formal knowledge of the areas in which they teach, etc. The NCLB requires that all teachers in core academic subjects be "highly qualified" by 2005-06 and that states take immediate action to ensure that poor and minority students have equal access to highly qualified teachers.[25] The Department must provide guidance and oversight to ensure that these requirements are met as quickly and fully as possible. This will be an exceedingly difficult task for states and districts, but even if gaps ultimately remain in access to highly qualified teachers, we should insist that those gaps not be correlated in any way with race or poverty.

Again, the Department's initial regulations and guidance raise concerns. For example, the Department's Consolidated State Plan Requirements properly identify teacher quality as one of the five key areas for state compliance with the NCLB. However, the

[23] No Child Left Behind Act of 2001 §9304(a)(3)(C).

[24] 34 C.F.R. § 299.10 (1999).

[25] *E.g.*, No Child Left Behind Act of 2001 §1119.

Requirements look at the distribution of highly qualified teachers only by the poverty of the students, not by race or ethnicity.[26] Despite the NCLB's state plan requirements in Title I,[27] Department guidance does not require states to ensure equal access to highly qualified teachers by race or ethnicity. The Department should correct this omission.

Technical Assistance

The NCLB focuses in multiple ways on technical assistance to help ensure proper implementation and success at raising achievement and closing achievement gaps. For example, the NCLB requires that states reserve funds to provide technical assistance to schools identified for improvement under the Act,[28] and that districts provide technical assistance "based on scientifically based research."[29] The Department must act quickly and continuously to help ensure that educational interventions aimed at underperforming schools are effective, including analyzing state and local efforts and disseminating promising practices. Furthermore, it is essential that the Department provide technical assistance and guidance regarding the development of data and assessment systems (as described above) – to ensure that the courses being set and the substantial investments being made today are educationally sound, valid, and reliable for all children.

Supplement Not Supplant

The NCLB requires in multiple places that states receiving federal funds for education use those funds only to supplement, not supplant, state funding.[30] Relatedly, states must maintain their efforts in funding education programs in order to qualify for federal funds.[31] These requirements often pose challenges, especially at times of state budget shortfalls, but they are vital to the Act's success, and they are the law. It is imperative that the Department clarify and fully enforce these requirements.

Of course, provisions of this sort are commonplace and notoriously ineffectual. An OMB Circular potentially invites wholesale evasion of the plain meaning of such statutory provisions.[32] If this Committee is serious about ensuring that new federal investments are not to be a form of fiscal relief, then you must take specific and forceful oversight action. Attention to the supplement-not-supplant issue is especially important in light of state education funding cuts occurring throughout the country, which have been prompted by the recent economic downturns.

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[26] Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,973 (May 22, 2002).

[27] No Child Left Behind Act of 2001 §1111(b)(8)(C).

[28] No Child Left Behind Act of 2001 §1003.

[29] No Child Left Behind Act of 2001 §1116(b)(4)(C).

[30] *See, e.g.*, No Child Left Behind Act of 2001 §§1706, 5114, 5537.

[31] No Child Left Behind Act of 2001 §9521.

[32] *See* OMB Circular A-133 Compliance Supplement, Part 4-Department of Education (April 1999).

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Funding

Finally, I want to encourage a certain fiscal militancy on the part of this Committee. Your hard work to win passage of the NCLB – with its substantial new requirements on states and its focus on accountability for outcomes – was substantively and politically linked to the promise that the federal government would play its role in ensuring that all children have the resources they need to achieve high standards. We know that in some of the poorest districts, eligible students go without these resources. Improved targeting of federal funds was part of the equation. More important, however, was the expected increase in appropriations.

The NCLB envisions a host of crucial investments made by all levels of government, in partnership. It will take substantial investments in assessment systems to make accountability work. The law wisely requires equitable access to high quality teachers, yet the current appropriations debate must not ignore reports that our growing teacher shortage is expected to reach unprecedented proportions.[33] In urban districts, close to 50 percent of newcomers flee the profession during their first five years of teaching.[34] These and other resource inadequacies could cripple meaningful implementation and kill the promise of NCLB. You as authorizers must take the lead in educating the rest of the Congress in its collective responsibility to keep the promise.

How? As we strive for accountability we must also evaluate the adequacy of resources to meet high standards. Perhaps GAO, the Department, the National Research Council, or a combination of them all, could undertake a comprehensive study of the resources needed to meet the goals of NCLB, together with the evident shortfall in the investments. I fully appreciate the methodological difficulty of such an undertaking, but some range of estimates might help inform an otherwise helplessly arbitrary process. The analysis could be updated as we gain more experience.

Conclusion

There are countless implementation issues in an undertaking of this magnitude. This brief and preliminary survey does not address them all. For example, I have not addressed a host of concerns related to students the limited English proficiency. However, what I have covered does suggest certain important themes regarding NCLB implementation:

- Is there sufficient focus on and commitment to the mechanisms within the NCLB that might address directly the racial and ethnic gaps in achievement?

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[33] The NEA Fact Sheet on the Teacher Shortage cites the NCES report, *The Baby Boom Echo Report, 1998*, which projects that by 2008, public school enrollment will exceed 54 million, an increase of nearly 2 million children over today and that "in high-poverty urban and rural districts alone, more than 700,000 new teachers will be needed in the next 10 years." National Education Association, *Teacher Shortage, Fact Sheet*, (2002) (available at http://www.nea.org/teaching/shortage/html).

[34] *Id.* (citing Darling-Hammond & Schlan, 1996).

- Is there determination within the Department to anticipate state and local problems and invest creatively in the technical assistance that might mitigate harms and ensure compliance with the NCLB?

- Is there sufficient willingness within the Department to collect needed data and to prevent or remedy lax implementation by the states?

- Will the Congress do its part to keep the promises of the NCLB? Will the needed appropriations be delivered? Will your oversight be sufficiently diligent and creative to ensure proper implementation and enforcement of the NCLB, ASAP?

I speak as someone frustrated by the slow pace of institutional reform in our schools and school systems, but also frustrated by the business-as-usual posture of state and federal officials year-in and year-out, regardless of the party in power. I speak as someone, too, who views education as second only to our Constitution as the font of justice and opportunity, and who views systemic reform of education as an indispensable element of the systemic elimination of color caste. Like me, Americans of every party and persuasion are saying enough is enough.

I will avoid the over-used war metaphor. But the pace of the Department's work must match the urgency felt by an informed parent who senses the accumulating disadvantage of opportunities lost, month by month, year by year. We must insist that every responsible official struggle to do the impossible because so much is at stake. We must honor them in their commitment, but strengthen them in their resolve. The work of this Committee could not be more important to our children and to the nation. Ignore the headlines. *This* is the committee on homeland security.

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